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United States Senate

COMMITTEE ON SMALL BUSINESS
WASHINGTON, DC 20510-6350

April 5, 2000

VIA FACSIMILE

(202) 690-6262

The Honorable Nancy-Ann Min DeParle
Administrator
Hubert H. Humphrey Building
200 Independence Ave., SW
Washington, DC 20201

Dear Administrator DeParle:

The purpose of this letter is to express my deep concern about the audit released on March 1, 1999, by Missouri State Auditor Claire McCaskill. The audit found "serious problems" with the Missouri Division of Aging's (MoDA) monitoring of nursing homes and handling of complaint investigations. The audit shows that the MoDA is not adequately meeting its regulatory responsibilities. Consequently, Missouri's elderly nursing home residents and their families are suffering and are the victims of failed state and federal oversight.

As recently as November 1999, the Health Care Financing Administration's (HCFA) Kansas City office informed me that: 1) the nursing home care in the state of Missouri is not any worse than it is nationwide; and 2) that Missouri's nursing home surveyors were in the top half of surveyors nationwide. Furthermore, at the same meeting I was told that HCFA was currently reviewing its contract with Missouri to determine whether the MoDA was meeting the terms and conditions of the contract. In my letters to HCFA, dated December 14, 1999, and January 18, 2000, I was pleased to learn of the contractual review and that I wished to be informed of the results of the review. To date I have neither received a response regarding HCFA's review of its contract nor have I received a status report on HCFA's findings.

The McCaskill audit indicates that the MoDA is not fulfilling its contractual responsibilities. The audit findings show that the MoDA:

- ▶ failed to conduct the minimum number of inspections as required by law — in fiscal year 1999 the MoDA failed to conduct 53 full inspections and 363 interim inspections;
- ▶ failed to investigate complaints within the statutory deadline — the MoDA listed 1,657 overdue complaint investigation reports;
- ▶ cited 47% of facilities for inadequate staffing or for staff qualification and training issues — yet, many complaints allege that facilities often make temporary changes in staffing

levels prior to surveys and the MoDA's surveyors were aware that staffing levels increased once inspections began.

If Missouri's problems are no better or worse than other states and Missouri's surveyors are better than average, it is frightening to imagine what failures are occurring across the nation.

In light of the serious and systemic problems identified in the audit of MoDA, I request that HCFA respond in detail to the following :

- 1) Was the HCFA Kansas City Regional Office aware that MoDA's surveyors failed to conduct the minimum required investigations and that complaint investigations were not completed within the statutory deadline, and if so, why was I not advised during my meeting at HCFA's Kansas City Regional Office;
- 2) What is the status of the HCFA's review of the contractual agreement with the state of Missouri — was HCFA aware of the failures identified in the audit, and if so, what actions were/are being taken to address the identified problems; and
- 3) What action will be taken by HCFA in response to the audit — specifically, shall HCFA monitor the implementation of the audit recommendations made by Missouri State Auditor Claire McCaskill?

I am extremely concerned that the MoDA has fallen down on the job and I am equally troubled that HCFA was frightfully unaware of the MoDA's failures. The systemic problems in the MoDA are symptoms of inexcusable lapses within HCFA's oversight program. Clearly we can serve our nation's elderly better by listening to their complaints and responding to their suffering.

I would appreciate receiving this information no later than April 21, 2000. If you or your staff have any questions regarding this matter contact Dan Donovan at (202) 224-5175.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Bond", written in a cursive, flowing style.

Christopher S. Bond
Chairman

Administrator DeParle

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cc: Don Johnson
Deputy Director
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Joe Tilghman
Regional Administrator
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